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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,895	02/09/2004	Scott D. Hardy	10762-006001	8757
26161	7590	10/21/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 10/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,895

Applicant(s)

HARDY, SCOTT D.

Examiner

Tara L. Mayo

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species B in the reply filed on 08 August 2005 is acknowledged.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the woven mesh heat-sealed to the inflatable frame, as set forth in claim 14; the woven mesh stitched to the inner inflatable frame, as set forth in claim 15; the binding tape positioned between the woven mesh and the inner inflatable frame, as set forth in claim 16; and the stitching between the binding tape and the woven mesh and between the binding tape the inner inflatable frame, as set forth in claim 17 must all be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

Art Unit: 3671

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 14 through 17 are objected to because of the following informalities: inconsistent claim terminology.

In claim 14 on line 2, delete "inflatable frame" and insert therefore --inflatable side panels-- or make an equivalent change thereto. Repeat the correction for claims 15 through 17.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 through 6, 8 through 13, 15, 18 through 22, 24 through 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Artz (U.S. Patent No. 5,291,623A) in view of Kohus et al. (U.S. Patent No. 4,739,527).

Art Unit: 3671

Artz '623, as seen in Figures 1 through 7, shows a structure comprising:

with regard to claim 11,

a base platform (16) configured to support a child; and

a plurality of inflatable side panels (14) extending vertically from and surrounding the base platform, the base platform and side panels defining an enclosure for the child;

with regard to claims 2 and 18,

wherein each of the side panels is inflatable individually (col. 3, lines 29 through 33);

with regard to claims 3 and 19,

wherein the plurality of inflatable side panels is configured to be inflatable from a single valve (14a; col. 3, lines 35 through 42);

with regard to claims 4 and 20,

wherein the base platform is integral to the side panels (col. 2, lines 54 through 59);

with regard to claims 5 and 21,

wherein the base platform is inflatable (col. 3, lines 1 through 3 and 16 through 18);

with regard to claims 6 and 22,

wherein the base platform comprises a plurality of elongated ribs (see Figure 5);

with regard to claims 9 and 25,

further comprising a pump to inflate the side panels (col. 4, lines 8 through 10);

with regard to claims 10 and 26,

wherein the panels are configured to be inflated with air; and

with regard to claim 27,

Art Unit: 3671

further comprising an inflatable member (18) attached to an outer periphery of the base platform, the inflatable member configured to support the side panels of the structure.

Artz '623 fails to teach:

the lower end of the side panels having a width greater than the upper end;

a protective member sealing the inner, inflatable panels from the child;

the protective member being formed of woven mesh;

the woven mesh being bonded to the inner inflatable panels; and

the means for bonding comprising stitching.

Kohus et al. '527, as seen in Figures 1 and 27, show a portable foldable playpen (10) comprising a protective member (162) sealing the inner panels (160) of the playpen from a child, wherein the protective member is formed of woven mesh (col. 6, lines 42 through 44) and is bonded to the inner panels by stitching (172).

With regard to claims 8 and 24, it would have been obvious to one having ordinary skill in the art of cribs at the time the invention was made to make the lower ends of each of the side panels of the device shown by the combination of Artz '623 and Kohus et al. '527 wider than their upper ends. The motivation would have been to further stabilize the structure against over-tipping by lowering the center of gravity.

With regard to claims 12, 13 and 15, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by Artz '623 such

Art Unit: 3671

that it would further include protective panels as taught by Kohus et al. '527. The motivation would have been to prevent a child from becoming trapped in the corner upon accidental collapse of the device.

6. Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Artz (U.S. Patent No. 5,291,623) in view of Kohus et al. (4,739,527) as applied to claims 11 and 27 above, and further in view of Bleser et al. (U.S. Patent No. 4,815,153)

The combination of Artz '623 and Kohus et al. '527 fails to teach the base platform being formed of a woven mesh.

Bleser et al. '153 disclose an inflatable playpen (12) having a base platform (16) and expressly teach the body being made entirely of molded plastic mesh (col. 4, lines 1 through 3).

It would have been obvious to one having ordinary skill in the art of cribs at the time the invention was made to modify the base platform of the device shown by the combination of Artz '623 and Kohus et al. '153 such that the base would be formed from a woven mesh as taught by Bleser et al. '153. The motivation would have been to use a durable, fluid impervious material with bidirectional stability.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Artz (U.S. Patent No. 5,291,623) in view of Kohus et al. (U.S. Patent No. 4,739,527) as applied to claim 13 above, and further in view of Berman (U.S. Patent No. 2,907,055).

The combination of Artz '623 of Kohus et al. '527 fails to teach:

the means for bonding comprising heat-seals.

Berman '055 expressly teaches the functional equivalence of sewing and heat-sealing for attaching members together (col. 2, lines 38 through 44).

With regard to claim 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by the combination of Artz '623 and Kohus et al. '527 such that the protective member would be heat sealed to the side panel instead of stitched since the same are taught as art-recognized equivalents by Berman '055 for attaching members.

8. Claim 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Artz (U.S. Patent No. 5,291,623) in view of Kohus et al. (U.S. Patent No. 4,739,527) as applied to claim 15 above, and further in view of Fink (U.S. Patent No. 3,137,870).

The combination of Artz '623 and Kohus et al. '527 fails to teach:

binding tape positioned between the woven mesh and the inner inflatable panels; and stitching between the binding tape and the woven mesh and between the binding tape and the inner inflatable panels.

Fink '870, as seen in Figures 1 and 4, expressly teaches the combination of stitching (27) and binding tape (30) for securing the edges of an infant bumper guard (20), wherein the binding tape serves as reinforcement (col. 1, lines 58 through 66).

Art Unit: 3671

With regard to claims 16 and 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device shown by Artz '623 and Kohus et al. '527 such that it would include binding tape as taught by Fink '870 between the woven mesh and the inflatable side panels. The motivation would have been to further reinforce the connection between the protective member and the side panels.

With specific regard to claim 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include additional stitching as claimed since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3671

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tlm
17 October 2005


TARA L. MAYO
PATENT EXAMINER